

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RYSTA LEONA SUSMAN, both)
individually and as Legal Guardian of)
SHANE ALLEN LOVELAND, et al.,)
Plaintiffs,)
v.) Case No. 8:18-cv-00127
THE GOODYEAR TIRE & RUBBER)
COMPANY,)
Defendant.)

**GOODYEAR'S MOTION TO PRECLUDE PLAINTIFFS' REHABILITATION EXPERT,
CRAIG LICHTBLAU, M.D., FROM OFFERING OPINIONS AT TRIAL FIRST
DISCLOSED IN HIS MARCH 3, 2020 SUPPLEMENTAL EXPERT REPORT, AND TO
PRECLUDE PLAINTIFFS' ECONOMIC EXPERT, BERNARD PETTINGILL, FROM
OFFERING OPINIONS AT TRIAL FIRST DISCLOSED IN HIS SECOND
SUPPLEMENTAL EXPERT REPORT SERVED ON MARCH 9, 2020**

The Goodyear Tire & Rubber Company (“Goodyear”) respectfully states as follows for its Motion to Preclude Plaintiffs’ Rehabilitation Expert, Craig Lichtblau, M.D., from Offering Opinions at Trial First Disclosed in his March 3, 2020 Supplemental Expert Report, and to Preclude Plaintiffs’ Economic Expert, Bernard Pettingill, from Offering Opinions at Trial First Disclosed in his Second Supplemental Expert Report Served on March 9, 2020:

1. On March 3, 2020, Plaintiffs served the Supplemental Expert Report of their rehabilitation expert, Craig Lichtblau, M.D. This Report contains two brand new opinions that were entirely absent from Dr. Lichtblau’s original Report. It also modifies numerous opinions from Mr. Lichtblau’s original report, including on the costs of medical care Mr. Loveland will need, the drugs Mr. Loveland will need in the future, and the costs of those drugs. Together, these changes increase Dr. Lichtblau’s predicted cost of Mr. Loveland’s future medical care by more than \$4,000,000.

2. On March 9, 2020, Plaintiffs served the Second Supplement Expert Report of their forensic economist expert, Bernard Pettingill. This Report takes the information contained in Dr. Lichtblau's Supplemental Report, and projects the costs of Mr. Loveland's future medical care for the remainder of his life. Mr. Pettingill, in short, provides the total monetary value of the care Dr. Lichtblau believes Mr. Loveland will need in the future. Mr. Pettingill based his calculations on a new income growth rate (i.e., a rate different from his original report) and a new future income discount rate.

3. The Court should preclude both of these experts from offering their newly-disclosed opinions pursuant to Federal Rule of Civil Procedure 37 as a sanction for Plaintiffs' failure to comply with their disclosure obligations under Federal Rule of Civil Procedure 26 and this Court's Final Progression Order.

4. Plaintiffs' belated disclosures are unjustified and if the belatedly-disclosed opinions of Plaintiffs' experts are introduced at trial, Goodyear will be substantially prejudiced.

WHEREFORE, Goodyear respectfully requests that the Court enter an order barring Dr. Lichtblau and Mr. Pettingill from introducing at trial any opinions from their belatedly-disclosed expert Reports.

GREENSFELDER, HEMKER & GALE, P.C.

By: /s/ Edward S. Bott, Jr.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed with the Clerk of the Court and served upon all attorneys of record using the CM/ECF system this 11th day of March, 2020.

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